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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JACQUELYN ANNETTE MARTINO, LIRA NIKOLOVSKA,
JEANNE DE BONT, and JOHN ZIMMERMAN

Appeal 2009-008970
Application 10/086,008¹
Technology Center 2400

Before MAHSHID D. SAADAT, MARC S. HOFF,
and CARLA M. KRIVAK, *Administrative Patent Judges*.

HOFF, *Administrative Patent Judge*.

DECISION ON APPEAL²

¹ The real party in interest is Koninklijke Philips Electronics N.V.

² The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-19. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' invention relates to a search engine display process that displays programming events on an electronic program guide, wherein the search results are aggregated according to features having identical or similar values (Abstract; Spec. 2:14-17). A symbol represents each aggregated item (Abstract). Features of list items may include standardized queries based on the time of day, season, class of operator, episode (Spec. 3:3-9; 9:6-9). A user interface permits the user to selectively expand or collapse the symbols (Abstract; Spec. 3:3-4; 9:11-23).

Claim 1 is exemplary:

1. A device for displaying search results, comprising:
 - at least one user interface and supporting processor connected thereto, said user interface having at least one control and at least one output;
 - said processor being configured to accept search results;
 - said user interface being adapted to apply control signals responsive to user input indicating a first feature of each of said search results;
 - said processor being configured to generate display data including multiple symbols corresponding to respective ones of said search results such that ones of said search results having a same value of said first feature are aggregated such that said ones are displayed as a single symbol, wherein said ones of said search results are expandable such that symbols that represent each of said ones are displayed upon receipt of a user selection of said single symbol;
 - said processor being adapted to output said symbols for display by said user interface in the format of a list extending along a first axis of a display area.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Eick US 5,812,124 Sep. 22, 1998

Claims 1-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Eick.

Claims 15-18 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.³

ISSUES

Appellants contend that Eick fails to disclose each and every aspect as recited in the claims (App. Br. 5). Specifically, with respect to claim 1, Appellants argue that Eick fails to disclose a device for displaying search results comprising, *inter alia*, a “*processor being configured to accept search results; a user interface being adapted to apply control signals responsive to user input indicating a first feature of each of said search results; said processor being configured to generate display data including multiple symbols corresponding to respective ones of said search results such that ones of said search results having a same value of said first feature are aggregated such that said ones are displayed as a single symbol*” (App. Br. 7). Appellants assert that Eick merely discloses displaying subgroups of a group when the group is selected by a user (App. Br. 7). In particular, Appellants argue that, given the example in Eick, the user’s selection of the letter “N” is a filter used when performing a search, and is clearly not an

³ The Examiner entered by a new ground of Rejection (Ans. 3) for which Appellants did not submit any arguments in the form of a Reply Brief.

aggregation of search results (App. Br. 8). For the same reason, Appellants argue further that Eick fails to disclose a device for displaying search results comprising, *inter alia*, a “*user input indicating a first feature of each of said search results and ones of said search results having a same value of said first feature are aggregated such that said ones are displayed as a single symbol,*” as recited in claim 1 (App. Br. 8).

Turning to claim 2, regarding the claim limitations of displaying search results of first and second features on respective first and second axes, Appellants contend that Figure 22 of Eick illustrates filters arranged along a vertical axis, but there are no instances (or subgroups) of the filters displayed along a second axis as required by this claim (App. Br. 10). Although the Appellants agree that Figure 23 of Eick includes first and second axes respectively displaying the time and day, Appellants assert further that “it is clear that symbols and instances of the symbol having a second feature and the same value of the first feature are not displayed along first and second axes, respectively” (App. Br. 10).

Finally, with respect to claim 7, Appellants contend that Eick does not disclose aggregating search results about two chosen features (App. Br. 11).

Appellants’ contentions present us with the following three issues:

1. Does Eick disclose *inter alia* “a processor being configured to accept search results; a user interface being adapted to apply control signals responsive to user input indicating a first feature of each of said search results; said processor being configured to generate display data including multiple symbols corresponding to respective ones of said search results such that ones of said search results having a same value of said first feature

are aggregated such that said ones are displayed as a single symbol,” as recited in claim 1?

2. Does Eick disclose *inter alia* “said display data including symbols corresponding to multiple instances of a subset of said search results having a second feature and the same value of said first feature, each of said subset of said search results being selectively displayable by said user interface developed along a second axis of said display area,” as recited in claim 2?

3. Does Eick disclose *inter alia* “said ones may be selectively aggregated about chosen second features,” as recited in claim 7?

FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Eick

1. Eick discloses when the search button 512, shown in Figure 5, is actuated by a user, screen 1600, shown in Fig. 16, is displayed showing an aggregation of search results, where all titles are sorted by character into groups of five or less (Figs. 5 and 16; col. 6, ll. 1-11; col. 9, ll. 57-61).

2. Eick discloses that the double right pointing arrows symbol “>>” indicates that multiple instances of the displayed string or group exists (col. 10, ll. 7-9).

3. Eick discloses the central processing unit 34 of the set top box (STB) 12 generates a broad search of all programs and displays the results on television 10 (Fig. 1, 2, and 16; col. 4, ll. 10-30; col. 9, ll. 57-61).

4. Eick discloses that the user selection of a particular symbol, “>,” associated with a group or string will expand the aggregated search result (col. 9, l. 60-col. 10, l. 1).

5. Eick discloses that if the user desired to expand the search results to see the programs titled “Nova,” the user would select the group that includes “N” from the display 1700. The television would screen 1900 when “M, N, O, P, Q, R” is selected. The user would then select the “N” and screen 2000 would appear on the television. The user would then select “No,” such that the results for the program “Nova” were displayed on screen 2200 (Figs. 16-22; col. 9, l. 61-col. 10, l. 15).

6. Eick discloses display data including symbols corresponding to multiple instances of a subset of the program “Nova” having a first feature of time along a first (horizontal) axis and a second feature of day along a second (vertical) axis (Fig. 23). If there are multiple occurrences of the program on a particular time and day, the display data is denoted with an asterisk (*) (col. 10, ll. 30-41). The user may select this logical stack of multiple programs by actuating button 64 of the remote (col. 10, ll. 50-55).

PRINCIPLES OF LAW

Anticipation pursuant to 35 U.S.C § 102 is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342, 1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim. We

determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

In an appeal from a rejection for anticipation, Appellants must explain which limitations are not found in the reference. *See Gechter v. Davidson*, 116 F.3d 1454, 1460 (Fed. Cir. 1997) ("[W]e expect that the Board's anticipation analysis be conducted on a limitation by limitation basis, with specific fact findings for each *contested* limitation and satisfactory explanations for such findings.") (emphasis added). *See also In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

ANALYSIS

A. Rejections under 35 U.S.C. § 102(b) Claims 1, 5, 6, 8-10, and 14-19

We select claim 1 as representative of this group, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

Representative claim 1 recites, *inter alia*, a "processor being configured to accept search results; a user interface being adapted to apply control signals responsive to user input indicating a first feature of each of said search results; said processor being configured to generate display data including multiple symbols corresponding to respective ones of said search results such that ones of said search results having a same value of said first

feature are aggregated such that said ones are displayed as a single symbol.” Independent claims 10 and 15 recite a claim limitation similar in scope.

We do not consider Appellants’ arguments to be persuasive to show Examiner error. We agree with the Examiner’s finding that Eick clearly meets the claim limitations, as search results corresponding to a same value of a first feature (beginning with the same first letter) are aggregated such that symbols representing the results are displayed and expandable upon selection by the user (wherein multiple first letters are displayed, and the aggregation of programs beginning with a particular letter are displayed upon user selection) (Ans. 10). Specifically, Eick discloses that when the search button 512 shown in Figure 5 is actuated by a user, screen 1600 shown in Fig. 16 is displayed which shows an aggregation of search results, where all titles are sorted by character into groups of five or less (FF 1). As shown in Figure 16 below, the double right pointing arrows symbol “>>” indicates that multiple instances of the displayed string or group exists (FF 2).

Figure 16 is reproduced below.

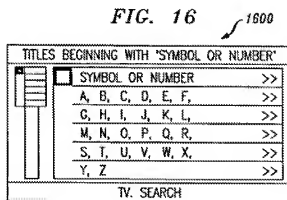


Figure 16 illustrates a first alphanumeric interactive display.

We agree with the Examiner that when the user actuates the search button 512, a broad search of all programs based upon alpha-numeric title search is initiated (Ans. 10; FF 1). We find that even though the search result would be to all programs, it remains a search result. The central processing unit 34 of the set top box (STB) 12 of the reference generates a broad search of all programs and displays the results on television 10 (FF 3). The user selection of a particular symbol, for example, ">>," associated with a group or string will expand the aggregated search result (FF 4). In particular, if the user desired to expand the search results to see the programs titled "Nova," the user would select the group that includes "N" and then "No" until the results for the program "Nova" were displayed (FF 5).

Therefore, we find that Eick discloses all of the limitations of claim 1. As a result, we will sustain the Examiner's § 102 rejection of representative claim 1, that of independent claims 10 and 15, and dependent claims 5, 6, 8, 9, 14, and 16-19, which are not argued separately.

Claims 2-4 and 11-13

We select claim 2 as representative of this group, pursuant to our authority under 37 C.F.R. § 41.37(c)(1)(vii).

As noted *supra*, we have affirmed the rejection of parent claims 1 and 10.

Representative claim 2 further recites *inter alia*, a "said display data including symbols corresponding to multiple instances of a subset of said search results having a second feature and the same value of said first feature, each of said subset of said search results being selectively displayable by said user interface developed along a second axis of said

display area.” Independent claim 11 recites claim limitations similar in scope.

We do not consider Appellants’ arguments to be persuasive to show Examiner error. As reproduced below, Eick discloses display data including symbols corresponding to multiple instances of a subset of the program “Nova” having a first feature of time along a first (horizontal) axis and a second feature of day along second (vertical) axis.

Figure 23 is reproduced below.

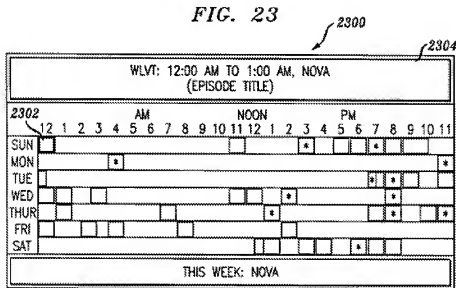


Figure 23 shows a two dimensional interactive display with logical third dimensional stacks for row and column intersections.

If there are multiple occurrences of the program on a particular time and day, the display data is denoted with an asterisk (*) (FF 6). The user may select this logical stack of multiple programs by actuating button 64 of the remote (FF 6).

Therefore, we find that Eick discloses all of the limitations of claim 2. As a result, we will sustain the Examiner's § 102 rejection of representative claim 2 and that of claims 3, 4, and 11-13, which are not argued separately.

Claim 7

Claim 7 further recites *inter alia*, a "said ones may be selectively aggregated about chosen second features." As noted *supra*, we have affirmed the rejection of parent claims 1 and 5. As discussed *supra* with reference to claim 2, Figure 23 of Eick clearly discloses the items of the search results are selectively aggregated about a second chosen feature of day or time.

Therefore, we find that Eick discloses *inter alia* "said ones may be selectively aggregated about chosen second features." As a result, we will sustain the Examiner's § 102 rejection of claim 7.

B. Rejection under 35 U.S.C. § 101

Appellants present no separate argument in a Reply Brief for the patentability of claims 15-18 with respect to 35 U.S.C. § 101. We therefore sustain *pro forma* the rejection of claims 15-18 as being directed to non-statutory subject matter.

CONCLUSIONS

Eick discloses, *inter alia*, "a processor being configured to accept search results; a user interface being adapted to apply control signals responsive to user input indicating a first feature of each of said search results; said processor being configured to generate display data including multiple symbols corresponding to respective ones of said search results

such that ones of said search results having a same value of said first feature are aggregated such that said ones are displayed as a single symbol.”

Eick discloses *inter alia* “said display data including symbols corresponding to multiple instances of a subset of said search results having a second feature and the same value of said first feature, each of said subset of said search results being selectively displayable by said user interface developed along a second axis of said display area.”

Eick discloses, *inter alia*, “said ones may be selectively aggregated about chosen second features.”

ORDER

The Examiner’s rejection of claims 1-19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2009-008970
Application 10/086,008

AFFIRMED

ELD

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